



# NORTH CAROLINA

## STATE BOARD OF ELECTIONS

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### VIA EMAIL

John Branch  
for Mark Harris for Congress Committee

February 21, 2019

Re: New production of records previously not produced under the State Board's subpoena to the Mark Harris for Congress Committee dated December 1, 2018 and February 6, 2019.

Mr. Branch:

Last night, ahead of the fourth day of testimony in the evidentiary hearing on your case, counsel for the State Board received a new production from the Mark Harris for Congress Committee (the "Committee"). New records were provided days after you had confirmed in writing that you had already produced "all responsive, non-objectionable" documents in response to the State Board's subpoenas."

The Committee's prior representation was "mistaken," according to your email, because your "supplements were responding to the Board's supplemental request and not the entirety of the subpoena." I assume you are referring to the January 15 letter captioned, "Request for clarification regarding productions under the State Board subpoena to Mark Harris for Congress Committee dated December 1, 2018" (enclosed), and to which the Committee responded with documents on February 8.

To be clear, there was no supplemental subpoena. The terms of the State Board's two subpoenas to the Committee, issued December 1, 2018 and then on February 6, 2019 under the new Chair's signature, were identical in scope. Both clearly included all documents related to "Leslie McCrae Dowless, Jr." and "Absentee ballots and absentee ballot request forms" from January 1, 2016 through December 1, 2018 in the possession of the Committee.

Based on your communication from last night, you represent that you only conducted "additional searches of documents, emails, and texts between March 1, 2017 and July 4, 2017 using the terms 'absentee', 'ballot', and different iterations of 'McCrae' and 'Dowless'" yesterday afternoon.

My letter of January 15, did not modify any term of the subpoena. Rather, it informed the Committee of our Agency's view that in effort to shield communications prior to July 2017—the filing of certain statements with the



Federal Elections Commission—was not supported by law. Records of exploratory activity may become records of a committee once formed. Further, the subpoena called for production of records within the Committee's possession, whatever entity may have been the "author" of those records.

The Committee on February 8 specifically stated that "Text messages with variations of "McCrae": all prior to July 3, 2017" was included in its search. And yet we were only provided the following last night, among other documents:

From: "Mark Harris" [REDACTED]  
To: "Marion Warren" <[REDACTED]>  
Sent: 08 Mar 2017 17:44:32  
Subject: No Subject

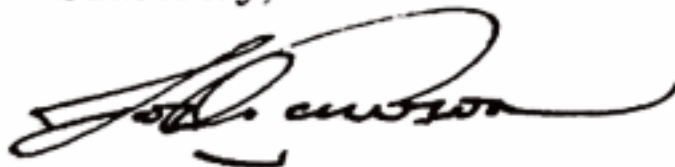
Hey Bro Marion....it's Mark Harris....hope you are well! I wanted to circle back with you per our phone conversation last week. On the HB186 front, I have had several really good conversations with several legislators and with some folks lobbying on this issue.. I am still trying to feel my way as to what the conclusion will be, but sense it is really bogged down at the moment.

On the other issue of your gracious offer to meet me in Bladen County and spend a day connecting me to the "key people" that can help me carry that part of the county in a future US House NC-9 race.....I wanted to see if you would be able to spend the day on Friday, March 25 with me down there. You know the political and financial connections better than anyone else I would know, including the guy whose absentee ballot project for Johnson could have put me in the US House this term, had I known, and he had been helping us. Anyway, let me know your thoughts and if that date would work for you. Thanks so much Marion for all your prayers and support as Beth and I come to some major decisions in our journey!

Mark

The timing of your disclosure raises significant and material concerns regarding the Committee's compliance and candor prior to, and now during, the hearing. Minutes ahead of the testimony of Dr. Mark Harris' son—and only after you understood that the State possessed certain documents in his possession—you stated to Agency counsel that the Committee had failed to produce certain correspondence. The explanation at that time for having withheld those documents was that your query of search had been incomplete. The testimony immediately following the Committee's disclosure strongly suggests that explanation was not accurate.

Sincerely,



Josh Lawson  
General Counsel

Encl: Records of Committee correspondence